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JOSEPH J. LAKS, VICE PRESIDENT  
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EXAMINER
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O STEEN, DAVID R

ART UNIT	PAPER NUMBER
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2623

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.



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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

**MAILED**

**SEP 12 2007**

Application Number: 10/092,039  
Filing Date: March 06, 2002  
Appellant(s): KLOPFENSTEIN, SCOTT EDWARD

**Technology Center 2600**

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Guy H Eriksen  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed March 1, 2007 appealing from the Office action mailed January 4, 2007.

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**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

### **(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

### **(8) Evidence Relied Upon**

<b>5,900,868</b>	<b>Duhault</b>	<b>05-1999</b>
<b>5,652,613</b>	<b>Lazarus</b>	<b>07-1997</b>

### **(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1, 4-6, 10-11, and 13-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Duhault (US 5,900,868).

As regards Claims 1, 10, and 16, Duhault discloses a tuner (fig. 1.12) a demodulator (inherent in the tuner of fig. 1.12), a decoder (fig. 1.14), a memory (figs. 1.16 and 1.26), a processor (fig. 1.28), adapting the storage of program guide information for a plurality of programs in a receiver, wherein said adapting step includes: determining whether a channel is included within a scan list comprising a plurality of channels and deleting program guide information associated with the channel if channel is not included within the scan list (cols. 2, 4, and 5, lines 10-32, 16-32, 28-42).

As regards Claims 4 and 13, Duhault discloses the claimed satellite and terrestrial broadcasting center (col. 3, lines 9-15).

As regards Claims 5 and 14, Duhault discloses that said plurality of programs comprises at least one of a pre-recorded program, a live broadcast (col. 3, lines 18-20), and an advertisement.

As regards Claim 6 and 15, Duhault discloses that said program guide comprises Advanced Program Guide information (APG taken to mean a system that allows a user to navigate an interface that allows them to browse programs available on a broadcast system, abstract, fig. 2, and col. 2, lines 10-42).

As regards Claim 11, Duhault discloses that the channel selected for removal is provided via an input device (edit selections are made using an input device such as a mouse or keyboard, col. 5, lines 14-19 and an edit selection can include adding or deleting channels, col. 5, lines 27-45).

Claim 2-3, 7-9, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Duhault (US 5,900,868) in view of Lazarus (US 5,652,613).

As regards Claims 2, 8, and 12, Duhault discloses the method of Claims 1 and 7 and the apparatus of Claim 10, but fails to disclose that said deleting comprises determining whether program guide information scheduled for said identified channel is scheduled for use with another channel; and deleting said program guide information if said program guide information is scheduled for user with no other channel. Lazarus discloses that said deleting comprises determining whether program guide information scheduled for said identified channel is scheduled for use with another channel; and deleting said program guide information if said program guide information is scheduled for use with no other channel (Lazarus checks to see if a program object is still

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scheduled to be run in the future on any channels in the EPG, if no channel in the EPG is running the program, the program object is deleted from the EPG data base, col. 4, lines 46-54).

At the time of invention it would have been obvious to a person of ordinary skill in the art to include the determining step, as done in Lazarus, an analogous art, to the method of Duhault to insure that no program data that is still being used in an EPG display is unnecessarily deleted.

As regards Claim 3, Lazarus discloses storing additional information for at least one program scheduled on an available channel (such as a program summary, col. 5, lines 30-33).

At the time of invention it would have been obvious to a person of ordinary skill in the art to include additional information for a scheduled program, as done in Lazarus, an analogous art, to the method of Duhault to give the user extra information about programs scheduled.

As regards Claim 7, Lazarus discloses a channel object containing program guide information for a channel (such as the channel name, its relative value, and whether it is a preferred channel or a pay channel, among other attributes, fig. 2 and cols. 5 and 6, lines 57-67 and 1-5), a schedule object containing program guide information for a program schedule (such as an database that contains information relating the programs broadcast, col. 3, lines 26-34), and a program object containing program guide information for a program (col. 5, lines 26-33).

At the time of invention it would have been obvious to a person of ordinary skill in the art to add channel objects, schedule objects, and program objects, as done in Lazarus, an analogous art, to the method of Duhault to give the user more information and control over the programs presented by the electronic program guide.

As regards Claim 9, Lazarus further discloses determining whether a schedule object referenced by said selected channel object is also referenced by a channel object associated with a different channel; deleting said referenced schedule object from memory if said schedule object is not referenced by another channel object; and deleting said selected channel object from memory (a schedule object contains program information for at least one program and Lazarus discloses deleting program information if said program information is not set to be run on any channels in the foreseeable future, col. 4, lines 50-54).

#### **(10) Response to Argument**

In response to the appellant's arguments, the examiner respectfully disagrees that the rejection should be reversed. Only those arguments raised by the appellant pursuant to the particular issues on appeal have been considered and addressed by the examiner. Any further arguments regarding particular limitations not specifically argued or other reasoning regarding deficiencies in a prima facie case of obviousness that the appellant could have made are considered as having been conceded by the appellant for the basis of the decision of this appeal and are not being subsequently addressed by the examiner for the Board's consideration. Should the panel find that the examiner's

position/arguments or any aspect of the rejection is not sufficiently clear or a particular issue is of need of further explanation, it is respectfully requested that the case be remanded to the examiner for further explanation prior to the rendering of a decision.

In section 7B of the Appeal Brief filed with the Office on March 1, 2007, the appellant argues that the 102(b) rejections of Claims 1, 4-6, 10-11, and 13-16 using the prior art reference of Duhault are flawed. In subsequent sections of the Appeal Brief, the appellant asserts that Duhault, and, indeed, any other reference cited by the examiner, fail to teach or suggest "determining whether a channel is included within a scan list comprising a plurality of channels available for viewing; and deleting program guide information associated with said channel if said channel is not included within said scan list" or similar limitations included in Claims 10 and 16. The appellant contends that the cited portions of Duhault disclose only whether the channels of the user's customized list can be displayed in a given display area and does not disclose. The appellant also argues that Duhault does not disclose program guide information being deleted when a channel is deleted from a scan list. For these reasons, the appellant contends that limitations put forward in Claims 1, 10, and 16 are patentably distinct and non-obvious over Duhault and, therefore, the rejections should be withdrawn by the Office.

The examiner respectfully disagrees. Duhault discusses scan lists (often termed "customized channel lists" in his specification) in numerous places throughout his specification, notably in the abstract, and in columns 2, 4, and 5. In lines 28-43 of column 5, Duhault discloses that channels can be deleted from the customizable



channel lists. Furthermore, Duhault discloses that a channel name, icon, or other text can accompany or be associated with a channel. This information is the same as program guide information. For these reasons, the examiner maintains rejections of Claims 1, 10 and 16.

In section 7C of the Appeal Brief, the appellant argues that the 103(a) rejections of Claims 2-3, 7-9, and 12 are flawed. In the subsequent sections (labeled C1) of the Appeal Brief, the appellant asserts that Duhault in view of Lazarus fails to teach or suggest "wherein said step of deleting comprises: determining whether a program object referenced by a selected channel object is also referenced by a channel object associated with a different channel; deleting said referenced program object from memory if said program object is not referenced by another channel object; and deleting said selected channel object from memory" which is a limitation found in Claim 8. The appellant contends that Lazarus only discloses a "housekeeping routine" that scans program records to determine which ones have expired according to time and date data. These records are deleted. Lazarus also contains a triage routine that prioritizes program record information so that the least valuable information can be deleted on a real time basis. The appellant further argues that Lazarus does not disclose the explicit step of deleting recited in appellant's Claim 8: namely, "determining whether a program object referenced by a selected channel object is also referenced by a channel object associated with a different channel; deleting said referenced object from memory if said program object is not referenced by another channel object; and deleting said selected channel object from memory." While the appellant concedes that Lazarus in column 4

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of his disclosure teaches that a program object can be disclosed if it is no longer referenced in the future, it does not disclose deleting an object if it is not part of a scan list. The appellant continues by saying that these deficiencies of Lazarus are not cured by Duhault. The appellant then largely rehashes his previous arguments with the Duhault reference. In conclusion the appellant states that Claim 8 is patentably distinct and non-obvious over the Duhault and Lazarus references and that the rejection should be withdrawn.

The examiner respectfully disagrees. First the examiner wishes to emphasize that Duhault does indeed disclose a scan list and where a user can add or delete channels from said list and, therefore, Lazarus is not relied upon by the examiner to disclose scan lists or deleting channel (or channel objects) from said scan list. Lazarus is relied upon deleting a program object referenced by a channel and deleting said program object only if said object is not referenced by another channel. In column 4, Lazarus discloses a housekeeping routine meant to delete program records (or objects) that are no longer needed in the EPG schedule database. If no showings of a program are scheduled in the database, then the entire record is deleted (col. 4, lines 46-54). As Lazarus teaches in lines 26-33, a program can be shown on many channels. Channel information for each program is maintained in each program record. As mentioned previously by the examiner, Duhault already teaches scan lists and that channels can be deleted from scan lists. In view of the above arguments, the examiner has shown that Lazarus discloses the limitation of "determining whether a program object referenced by a selected channel object is also referenced by a channel object

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associated with a different channel; deleting said referenced object from memory if said program object is not referenced by another channel object; and deleting said selected channel object from memory.” Furthermore, the U.S.C 103(a) rejection of Claim 8 is maintained.

In section 7C2 of the Appeal Brief, the appellant makes the same argument with respect to Claim 9 as his does with respect to Claim 8. The only difference between the two claims is that language about program objects are replaced with language about schedule objects. Both schedule objects and program objects contain program guide information disclosed in Lazarus (please see Lazarus, col. 5, lines 26-33) and are tightly correlated with each other (see the appellant’s specification, pages 9-10, lines 26-30 and 1-20). Therefore, the examiner’s reply to arguments in section 7C2 is the same as the reply to arguments in section 7C1. Furthermore, the U.S.C 103(a) rejection of Claim 9 is maintained.

**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner’s answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

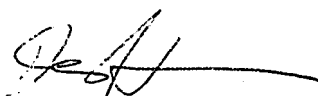
DRO

August 23, 2007

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